Criminal Revision No.924 of 2001

Central Breau of Investigation
Special Police Establishment
through its Superintendent of
Police ..... Revisionist

Vs.

Special Judge, C.B.I. Dehradun..... Respondent

....

Hon.M.C.Jain,J.

Heard Sri U.K.Uniyal, learned counsel for the C.B.I. and learned A.G.A. on behalf of the State of U.P.

The order impugned in this revision has been passed on 17.7.2001 by Sri Subhash Chandra, Special Judge, C.B.I. Dehradun, directing the S.P.,C.B.I. for registering the case in question and for investigation by a competent officer. This order was passed on a bundle of documents which had been produced before the Presiding Officer of the Court below by a stranger, who even did not disclose his identity. It was stated by him that Footwear Design Development Institute was an instrumentality of the Government of India which was functioning at Noida. There was an agreement between F.D.D.I. and IRCON International Ltd. for a project Management Consultancy for design, execution, project management, Coordination,etc. Considerable loss had allegedly been caused by the Central Government Officers including the then M.D. of F.D.D.I. to the funds of Government of India by abusing their official position as public servants and by indulging in mal-practices, like corruption. Various other matters of corruption had also been narrated. The person producing the bundle of documents had allegedly secretly brought his grievance to the knowledge of C.B.I. Dehradun branch, but nothing could come not. The Presiding Officer of the Court below was of the opinion that there were adequate grounds to register the case and to get the matter investigated by the C.B.I.. In the result, he passed the impugned order.

The grievance of the C.B.I. is that the Court below had no such jurisdiction for directing registering of the case by the C.B.I. and the investigation by it in the manner it has been ordered on the production of a bundle of documents by a stranger who even did not disclose his identity. It is also urged by Sri U.K.Uniyal, counsel for C.B.I. that before passing the impugned order, the learned Special Judge,C.B.I. did not issue any notice to the C.B.I. for giving an opportunity of being heard in the matter.

He has relied on the decision of the Supreme Court in the case of C.B.I. through S.P.Jaipur Vs. State of Rajasthan JT 2001(1)SC 624, wherein it has been held that magisterial powers cannot be stretched beyond directing the other incharge of police station to conduct investigation. Only the High Court and Supreme Court can sparingly invoke powers under Article 226/32 or 142(1) of the Constitution of India for giving such directions of investigation to the C.B.I. Indeed, the Special Judge concerned being invested with original jurisdiction, could only exercise powers to direct investigation in a cognizable case u/s 156(3)Cr.P.C. The analogy of law laid down by the apex Court in the case referred to above is squarely applicable to the situation here. The argument of the learned counsel for the C.B.I.is well fortified and sustainable. The Special Judge concerned did not have such omnipotent power to direct investigation by the C.B.I. on the strength of a bundle of papers produced before him by a stranger who even did not disclosed his identity.

In the result, the impugned order passed by the Special Judge concerned is bad and can not be legally sustained. The revision is allowed and the impugned order dated 17.7.2000 passed by the Special Judge C.B.I. Dehradun is quashed.

(M.C.Jain,J.)

Dt.01.10.2001

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